

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| RAYMOND BROWN, | : | |
| Plaintiff, | : | CIVIL ACTION |
| | : | |
| | : | |
| V. | : | NO. 2:20-cv-05354-MMB |
| | : | |
| CITY OF PHILADELPHIA, ET AL., | : | |
| | : | |
| | : | |
| Defendants. | : | <u>JURY TRIAL DEMANDED</u> |
| | : | |

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT'S MOTION TO DEFER CONSIDERATION
CONSIDERATION OF PLAINTIFF'S REQUEST FOR COSTS**

This Court should defer consideration of Plaintiff's Request for Costs (ECF Doc. 48) in this matter. Defendants have filed a motion for judgment as a matter of law or new trial, and depending on the Court's ruling on the post-trial motion, they may file an appeal with the Third Circuit upon the Court's final order. In such a situation, the Court has discretion to defer consideration of a request for costs until the appeal has been resolved. *See 1st Westco Corp. v. Sch. Dist. of Phila.*, No. 91-2727, 1993 WL 117539, at *1 (E.D. Pa. Mar. 31, 1993); *see also Giffler v. Abel*, No. 94-5348, 1996 WL 84816, at *1 (E.D. Pa. Feb. 22, 1996); *Roberts v. Twp. of Horsham*, No. CIV.A. 94-1821, 1994 WL 683388, at *1 (E.D. Pa. Dec. 2, 1994). The Court enjoys such discretion because if it "were to decide, before the Third Circuit adjudicates the appeal, the amount of [costs] to which plaintiff is entitled, [the] decision could be rendered moot when that court issues its decision," an outcome that would hinder judicial economy. *See 1st Westco*, 1993 WL 117539, at *1. Therefore, the Court should grant this motion and thereby defer consideration of Plaintiff's Request for Costs until the Court has ruled on Defendants' post-trial motion and after any appeal of this matter has been resolved.

Respectfully submitted,

BY: /s/ Matthew K. Hubbard
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